



CALIFORNIA STATE  
**PUBLIC WORKS BOARD**

EDMUND G. BROWN JR. • GOVERNOR

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STATE PUBLIC WORKS BOARD

May 11, 2012

**MINUTES**

**PRESENT:**

Mr. Pedro Reyes, Chief Deputy Director, Policy, Department of Finance  
Mr. Esteban Almanza, Chief Deputy Director, Department of General Services  
Mr. Martin Tuttle, Deputy Director, Department of Transportation  
Mr. Francisco Lujano, Director, Securities Management, State Treasurer's Office  
Mr. Jim Lombard, Chief Administrative Officer, State Controller's Office

**STAFF PRESENT:**

Greg Rogers, Administrative Secretary  
Theresa Gunn, Assistant Administrative Secretary  
Stephen Benson, Assistant Administrative Secretary  
Andy Ruppenstein, Budget Analyst  
Carlos Ochoa, Budget Analyst  
Sally Lukenbill, Budget Analyst  
Shryl Thomas, Budget Analyst  
Natalie Daniel, Budget Analyst  
Randy Katz, Budget Analyst

**CALL TO ORDER AND ROLL CALL:**

Mr. Pedro Reyes, Chairperson of the Board and Chief Deputy Director of the Department of Finance called the meeting to order at 10:00 a.m. Mr. Greg Rogers, Administrative Secretary for the Board, called the roll. A quorum was established.

The first order of business was approval and adoption of the minutes from the April 11, 2012 meeting. Mr. Rogers reported that staff had reviewed the minutes and recommend approval and adoption of the minutes.

**A motion was made by Mr. Tuttle and seconded by Mr. Almanza to approve and adopt the minutes from the April 11, 2012 meeting. The minutes were approved by a 5-0 vote.**

**BOND ITEMS:**

Mr. Reyes stated that there was one Bond Item on the agenda for the Board's consideration. Mr. Rogers presented Bond Item #1.

**BOND ITEM 1:** Mr. Rogers reported that Bond Item #1 was for the Department of Corrections and Rehabilitation's (CDCR) Women's Jail and Health Care/Program Building Jail Project in San Luis Obispo County. Approval and adoption of the Resolution for Bond Item #1 would authorize actions to be taken to provide for interim financing, the sale of lease revenue bonds, and related actions in connection with the authorization, issuance, sale and delivery of the revenue bonds. The action included approval and execution of a Project Delivery and Construction Agreement between San Luis Obispo County, CDCR, the Corrections Standards Authority, and the Board.

Mr. Rogers stated that the total amount of state funds authorized for the project is \$25,126,000, and approval of the resolution would authorize staff to seek interim financing for the project.

Staff recommended adoption of the Resolution and approval of Bond Item #1.

There were no questions or comments from the Board or the public.

Mr. Rogers called a roll to approve Bond Item #1:

AYES

Mr. Pedro Reyes, Chief Deputy Director, Policy, Department of Finance

Mr. Esteban Almanza, Chief Deputy Director, Department of General Services

Mr. Martin Tuttle, Deputy Director, Department of Transportation

Mr. Jim Lombard, Chief Administrative Officer, State Controller's Office

Mr. Francisco Lujano, Director, Securities Management, State Treasurer's Office

NOS

None

**Bond Item #1 was approved by a 5-0 vote.**

### **CONSENT ITEMS:**

Mr. Rogers informed the Board there were 7 Consent Items. In summary, these items were proposed:

- 1 request to approve preliminary plans and a reversion of project savings, Item 1;
- 1 request to recognize a scope change, Item 2;
- 2 requests to authorize an acquisition, Items 3 and 7; and
- 3 requests to approve preliminary plans, Items 4, 5, and 6.

Staff recommended approval of Consent Items 1 through 7.

There were no questions or comments from the Board or the public.

**A motion was made by Mr. Tuttle and seconded by Mr. Almanza to approve Consent Calendar Items 1 through 7. The Consent Items were approved by a 3-0 vote.**

### **ACTION ITEMS:**

**ACTION ITEM 1:** Action Item #1, the Judicial Council's New Redding Courthouse in Shasta County, considered for authorizing the acquisition of the Thompson Parcel.

Mr. Rogers stated that the requested action would authorize the acquisition of the last of the 11 necessary parcels, which total approximately two acres in the City of Redding. The purpose of the proposed acquisition was to construct a new 14-courtroom, 173,000 square foot facility and associated improvements for use by the Superior Court of California for judicial, administrative, and related purposes.

Mr. Rogers reported that a total of \$6.9 million was appropriated for the acquisition, and the last parcel could be acquired with available funds, as the 10 parcels already acquired totaled \$2.0 million.

Mr. Rogers reminded the Board of its action at the April 8, 2011 meeting to recognize that the Oregon/Yuba site in Redding was the preferred location to construct a new courthouse. Additionally, the Board recognized that one of the required parcels was to be acquired through the use of Eminent Domain (the Property).

Mr. Rogers stated that on July 8, 2011, the Redding Redevelopment Agency (RDA) made "rights to acquire" offers to the private owners of five private parcels that made up a portion of the proposed site. One of the private owners was in disagreement with the Department of General Services' (DGS) approved appraisal. However, on June 24, 2011, the Owner signed a stipulation stating they did not object to the Redding RDA's right to take the Property and the court issued an Order of Possession for the Parcel.

On February 23, 2012, a Superior Court settlement conference was conducted to consider the fair market value of the Property. The Owner's real estate appraiser opined that the estimated value of the Property was \$1 million, while the Redding RDA's appraiser opined the estimated value to be \$725,000. The settlement conference concluded with the Owner agreeing to accept the sum of \$950,000 as just compensation for the Property.

Mr. Rogers stated that although the settlement offer of \$950,000 was \$225,000 higher than the appraised value, as approved by DGS, the purchase price was negotiated through an arm's length process that took into account many factors, such as the DGS approved appraisal, the property owner's appraisal, the limited availability of comparative sales data, the unique nature of the property, and a number of public benefit factors. Given these factors and other factors noted in the staff analysis portion of the agenda item, the price that was negotiated was believed to be a fair and equitable value for both the Owner and the state. The Judicial Council's legal counsel reviewed the transaction and concluded that given the public benefits achieved through the acquisition, the purchase price was an appropriate expenditure of public funds.

In summary, staff recommended approval of the acquisition due to the compensating factors noted in the staff analysis.

Mr. Tuttle asked if the diesel soil was removed and if the site was cleaned. Mr. Warren Smith, Project Manager with the Administrative Office of the Court, answered that the diesel soil was removed and there is no other contaminants on the site.

There were no further questions or comments from the Board or the public.

**A motion was made by Mr. Tuttle and seconded by Mr. Almanza to approve Action Item 1. Action Item 1 was approved by a 3-0 vote.**

**Regarding Action Items 2 and 3:** Mr. Reyes noted it is not the Board's practice to take action on items that require a vote on a contingent basis. However, for these two items the contingent approval was close enough to the expiration of CEQA statutes of limitation period for the Board to feel comfortable voting on the issues, as opposed to an action whereby the contingent action would not be met for many days. Mr. Rogers concurred that the two items are Action Items because of the contingent nature.

Ms. Theresa Gunn presented the two items.

**ACTION ITEM 2:** Action Item #2, the Department of Mental Health (DMH), Metropolitan and Napa Fire Sprinkler system for Skilled Nursing Facility at the Metropolitan State Hospital and Napa State Hospital in Los Angeles County and Napa County, considered for approval of preliminary plans contingent upon the statutes of limitation passing with no court challenge.

Ms. Gunn reported that the code of federal regulations requires fire sprinklers for any long-term care facility receiving centers for Medicare and Medicaid services. The regulations also require the fire sprinklers be installed by August 2013 or the state will lose funding. While the project will not be complete by that date, it is anticipated that if the state is well into the installation of the sprinklers, the federal government would be lenient. Therefore, waiting until the next Board meeting to request the approval of preliminary plans because the California Environmental Quality

Act (CEQA) statutes of limitations period expires three days after this Board meeting would create an unnecessary four week delay in the project. In addition, per Budget Act provisions, working drawings must be encumbered by the end of the fiscal year and delaying approval of preliminary plans until the June meeting would require DMH to encumber the working drawing funds in less than three weeks, which seems severely risky in light of the fact that all but three days of the CEQA statutes of limitation period had already expired.

In summary, staff recommended approval of preliminary plans contingent on passage of the CEQA statutes of limitation period expiring without a court challenge.

There were no questions or comments from the Board or the public.

**A motion was made by Mr. Tuttle and seconded by Mr. Almanza to approve Action Item #2 contingent on passage of the CEQA statutes of limitation period expiring without a court challenge. Action Item #2 was approved by a 3-0 vote.**

**ACTION ITEM 3:** Action Item #3, the Department of Mental Health's Napa State Hospital Fire Alarm Replacement System at Napa State Hospital in Napa County, considered for approval of preliminary plans contingent upon the statutes of limitation passing with no court challenge.

Ms. Gunn reported that Action Item #3 is similar to Action Item #2 in that the CEQA period for Action Item #3 also lapses in three days. Per Budget Act requirements, design funds must be encumbered by June 30, 2012. To delay the approval of preliminary plans to the June 2012 Board meeting because the CEQA statutes of limitation period expires three days after this meeting would create an unnecessary four week delay in the project that could result in the inability of DMH to properly encumber working drawing funds.

In summary, staff recommended approval of preliminary plans contingent on passage of the CEQA statutes of limitation period expiring without a court challenge.

There were no questions or comments from the Board or the public.

**A motion was made by Mr. Tuttle and seconded by Mr. Almanza to approve Action Item #3 contingent on passage of the CEQA statutes of limitation period expiring without a court challenge. Action Item #3 was approved by a 3-0 vote.**

### **OTHER BUSINESS:**

**OTHER BUSINESS ITEM 1:** Mr. Rogers reported that there were two items under Other Business.

**OTHER BUSINESS ITEM 1:** Other Business Item #1, California High Speed Rail Authority (the Authority) in various counties, considered for the adoption of a Resolution to authorize the delegation of authority to set just compensation amounts relating to the acquisition of property for the Authority for the High Speed Rail System (the System).

Ms. Gunn stated that all acquisition items are currently brought to the Board. However, the Authority anticipates acquiring 1,100 properties from Madera County to Bakersfield County over the next two years as part of the high speed train system. Thousands of additional properties will need to be acquired as the system extends first into the Los Angeles Basin and then towards the Bay Area. As all of the 1,100, properties as well as any future properties, will be partly purchased using federal funds, the acquisition process must comply with the Uniform Real Property Acquisition Policy better known as the "Uniform Act." In order to expedite the negotiation process, it was requested that the setting of just compensation for the Authority properties be a delegated item.

The Resolution provided for delegation to the following positions: the Administrative Secretary and the Assistant Administrative Secretaries to the Board, and the Chief of Real Property Services Section and the Assistant Chiefs to the Real Property Services Section of the Department of General Services (DGS). Just compensation is set after DGS approves the appraised amount and is generally the appraised amount.

In summary, staff recommended approval and adoption of a Resolution authorizing the delegation of authority to the Administrative Secretary and the Assistant Administrative Secretaries to the Board, and the Chief of Real Property Services Section and the Assistant Chiefs to the Real Property Services Section of DGS to set just compensation amounts relating to the acquisition of property for the Authority as part of the System.

Mr. Martin Tuttle stated that the high speed rail project was a huge undertaking and that the Department of Transportation would do anything they can to make it more efficient.

Mr. Reyes thanked Board staff for their extraordinary work at streamlining the process.

Mr. Esteban Almanza asked how the appraisal process works. Ms. Gunn answered the appraisals would be done by private entity consulting firms that the Authority will employ. The consultants will complete negotiations and appraisals. Then the appraisals will be reviewed by a third party independent consultant, hired by the Authority. Once the third party consultants complete their review and approval of the appraisals, they will submit it to the Authority, who will then review the appraisals and forward them to Board staff, who will set the just compensation amount. Finally, the private consultant firm that began the appraisal work would start negotiations to acquire the property.

Mr. Reyes asked if the items would be presented to the Board for approval again. Ms. Gunn answered that the acquisition agreement does require the Board's approval. Once an agreement is reached, they will be represented to the Board for approval.

Mr. Tuttle asked if all 1,100 properties are expected to be presented to the Board. Ms. Gunn answered not all 1,100 properties would be presented to the Board as an Action Item or Content Item, as it is anticipated that some of the acquisitions will be delegated to staff. Ms. Gunn stated that Board staff will set just compensation, and provide a list of those properties to the Board at a future meeting, as necessary. In the future, any potential delegated acquisition to Board staff will also be presented to the Board as necessary. Mr. Reyes stated that it may be necessary for the Board to meet more often than once per month to review and approve the acquisitions.

There were no further questions or comments from the Board or the public.

**A motion was made by Mr. Tuttle and seconded by Mr. Almanza to approve Other Business Item #1. Other Business Item #1 was approved by a 3-0 vote.**

**OTHER BUSINESS ITEM 2:** Other Business Item #2, California High Speed Rail Authority (the Authority) in various counties, considered for the direction and authorization of staff to work with the Authority staff and Caltrans to negotiate an interagency agreement (or amendment) for legal representation of the Board on acquisition matters for the High Speed Rail System (the System) that require the exercise of eminent domain.

Ms. Gunn stated the Authority is entering into an interagency agreement with Caltrans, which will provide several lawyers experienced in right-of-way acquisitions to assist and provide legal advice related to right-of-way acquisitions for the System. The lawyers are also experienced in litigating eminent domain proceedings.

Under the relevant statutes, the Board is the condemning entity adopting the Resolution of Necessity and initiating the litigation in the properties that cannot be acquired through a negotiated process. It would increase efficiency and likely minimize delay if the lawyers representing the Authority on the acquisitions also represented the Board in cases where the board has authorized the use of eminent domain to acquire property for the System. The costs

associated with the legal representation would be paid for out of the System's acquisition appropriation.

Ms. Gunn stated the Attorney General's Office (AGO) consented to the Authority using Caltrans lawyers instead of the AGO for the System acquisitions.

Board staff has had discussions with staff at both the Authority and Caltrans and believes this type of joint representation would work well in the eminent domain proceedings that will likely be authorized for certain System acquisitions. Accordingly, staff requested the Board approve the arrangement and direct staff to negotiate either an amendment to the Authority/Caltrans interagency agreement, or a separate interagency agreement for the Caltrans lawyers representing the Authority to also represent the Board for the acquisitions that will require the exercise of eminent domain. Staff would work to obtain AGO consent prior to entering into any such agreement.

In summary, staff recommended authorizing and directing staff to work with the Authority and Caltrans staff to negotiate an interagency agreement (or amendment) for legal representation of the Board on acquisition matters for the System that require the exercise of eminent domain contingent upon the consent by the Attorney General.

There were no questions or comments from the Board or the public.

**A motion was made by Mr. Tuttle and seconded by Mr. Almanza to approve Other Business Item #2. Other Business Item #2 was approved by a 3-0 vote.**

### **REPORTABLES:**

Mr. Rogers reported there were seven reportable items for this month:

- Judicial Council of California, San Joaquin County:
  - Approved an augmentation, in the amount of \$27,000
- Department of General Services, Sacramento County:
  - Approved an increase within appropriation, in the amount of \$1,798,000
- Department of General Services, Nevada County:
  - Approved an increase within appropriation, in the amount of \$346,000
- California Conservation Corps, El Dorado County:
  - Approved an increase within appropriation, in the amount of \$2,390,000
- Department of Forestry and Fire Protection, Mendocino County:
  - Approved an increase within appropriation, in the amount of \$947,000
- Department of Education, Riverside County:
  - Approved an increase within appropriation, in the amount of \$728,000
- California Community Colleges, Riverside County:
  - Approved a reversion of project savings, in the amount of \$1,065,000

### **NEXT MEETING:**

Mr. Reyes stated the next Public Works Board meeting is scheduled for **Friday, June 8, 2012, at 10:00 a.m., at the State Capitol, in Room 113.**

There were no questions or comments from the Board or the public.

The meeting was adjourned at 10:25 a.m.